

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 570 of 1998  
with  
CIVIL APPLICATION No 10992 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 - No

-----

RAMVIRSINH DARUSINH RAJPUT

Versus

MAZOOR MAHAJAN SANGH

-----

Appearance:

DR MUKUL SINHA for Petitioner

MR DS VASAVADA for Respondent No. 1

-----

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 01/03/99

ORAL JUDGEMENT

This appeal is directed against the order dated 30.9.1998 passed by the City Civil Court, Ahmedabad dismissing the appellant-plaintiff's notice of motion to restrain the defendant-Mazoor Mahajan Sangh from conducting elections of Mazoor Mahajan Sangh.

2. At the hearing of the appeal today, Dr Mukul Sinha, learned counsel for the appellant submitted that

the trial Court has erred in holding that the provisions of Section 14A of the Trade Unions Act, 1926 bar the jurisdiction of the civil Court to entertain the present suit praying for a permanent injunction to restrain the defendant from conducting the elections as per the 1990 Election Rules and as per the resolution passed by the executive committee of the defendant.

3. It is true that the trial Court has giving a finding that the provisions of Section 14A bar the jurisdiction of the civil Court. However, the trial Court has given other reasons as well for dismissing the notice of motion and those other reasons are - (i) where there is alternative remedy available, even the civil Court may not grant the discretionary relief of interim injunction, just as this Court exercising powers under Articles 226 and 227 also may not entertain a petition if alternative remedy is available, (ii) if the interim relief is granted, it would amount to decreeing the suit and, therefore, the same is not to be granted and (iii) as held by this Court in various judgments, once the election process has commenced, the Court would be loath to intervene and interfere with the democratic process. While dismissing the notice of motion, the trial Court also clarified that the aspect of constitutionality of election rules and the necessary amendment proposed by the plaintiff cannot be scrutinized on merits at the interlocutory stage.

4. In view of the aforesaid reasons given by the trial Court, it cannot be said that the impugned order of the trial Court is passed only on the finding that the civil Court has no jurisdiction. Even if the civil Court would have jurisdiction, the additional grounds which appealed to the trial Court cannot be said to be irrelevant. The courts generally do not stay the election process and, therefore, the trial Court was justified in refusing to grant interim stay against elections in question.

5. It is clarified that this Court does not express any opinion on the question of jurisdiction of the trial Court to entertain the suit in question and the said question is kept open. The trial Court will be free to decide the question at the trial of the suit without being influenced by any observations made in the interlocutory order.

6. Subject to the aforesaid observations, the appeal is dismissed. Civil Application does not survive and is disposed of accordingly.

Ad-interim stay granted earlier on 4.2.1999 is vacated.

Sd/-

March 1, 1999 (M.S. Shah, J.)

sundar/-